

TO: Secretary
Federal Election Commission

FROM: Jody L. Novacek

DATE: July 6, 2007

FAX: 13 Pages + UPS Cover Sheet

RE: MUR 5472

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COMMISSION
SECRETARIAT

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First, my apologies. I have not had time to edit this. It took much longer than I thought to compose, but I need to fax it to you today and will follow up with double spaced, clean copies in the mail.

Per a letter I received late in the afternoon of June XXX, 2007 which was dated June 19, 2007 via a "stamp", I am submitting the following:

- a) A Reply to the General Counsel's Brief
- b) A Request for a Probable Cause Hearing

Thank you for your attention to this matter.

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REPLY TO GENERAL COUNSEL'S BRIEF REGARDING MUR 5472**OPENING STATEMENTS**

For simplicity of discussion herein, I will use "RVC" to encompass all parties listed in the General Counsel's Brief.

Additionally, I am not being represented by counsel and do not have knowledge of nor was I given information on where I can get information on what the following violations entail: 2 U.S.C. 433(a), 434(a) and 441h(b); 2 U.S.C. 441d(a) and 441d(c); and 2 U.S.C. 441h(b)(2).

However, from the Brief I can deduct what none of these entail and I can address various factual issues outlined in the General Counsel's Brief.

Furthermore, I have not heard from the FEC in almost a year. Our last contact was my deposition last summer. At the end of that meeting, I requested two things from the FEC and received neither. The first was to receive a copy of my deposition to ensure it's accuracy. At the time the attorney for the FEC, Alexandra Dumas (I'm not 100% sure I have her name correct) told me she wasn't sure if I was entitled to see a copy of this transcript, but she would look into it and let me know. I have not heard from her. Additionally, in the letter requesting I travel to Lincoln, NE for a deposition, it stated in the letter I would be reimbursed for travel expenses. At the end of the deposition I asked Alexandra for a form for reimbursement. She did not have one, but promised to complete the form for me and make sure I got a check. She even said she would calculate the mileage off the Internet for me, which I said would be fine. I have not received either a form or a reimbursement check. Additionally, we discussed various documents throughout the deposition that I had in Texas, that she was going to send a formal subpoena for and I was going to provide as soon as I could get to Texas, which I estimated to be October. It was a point of contention, because she wanted them sooner, but I wasn't in Texas to get them. In the end I never received any request for these documents.

So it was with great concern I read the General Counsel's Brief, after hearing nothing for almost a year. I noticed Alexandra's name is not on the documents and I wonder what happened to this investigation and the person who to the best of my knowledge all or most of the fact finding. I find it very concerning that this brief "cherry-picks" my testimony and does not come close to representing THE WHOLE TRUTH by omitting many examples of conversations I had with Apex and Advantage that are directly related to the charges.

Additionally, it is with great concern that I read the testimony of especially Apex and its employees. They have LIED. I have spent the last two weeks pondering how my word against their word can even be "judged" so the truth will come out. Until last night, the only thing I could think of to offer up is to request a hearing and ask to be given a polygraph test during that hearing. I have never had a test nor do I know much about them. The closest I've come to seeing one administered is a couple years ago there was a TV reality show called something like "Who Wants to Marry Our Dad." In the show women were polygraphed and asked about things like past boyfriends, etc. I'm sure some of this was edited for

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entertainment purposes. But, if that's how a test is really administered, then that's as close as I've ever come to one. The formal Request for a Hearing is within this document.

Additionally, last night lying in bed at midnight on the 4th of July, I remember something else that will help prove Apex is lying in their testimony. I remembered there is another person/witness that is extremely independent of either my side or Apex's side, that can corroborate enough of my version, to clearly show Apex is lying in their testimony. The details of this are presented further in this document.

It is my believe that Apex's corporate office, and in particular the owner, is forcing the employees to lie and tell the same story. This is particularly upsetting to me concerning Tom Maddux. I have known Tom for many years and he is a very good man. And either the General Counsel has also "cherry-picked" his testimony and made their own interpretation of the meaning, like they have in mine; or Tom Maddux has had to make a very, very hard decision for the happiness of his family. Tom's wife is from the VA area. She very much wants to stay in that area. Tom has two sons. Their both swimmers and one, if not both should be in college by now. I haven't spoken to Tom since the negotiations for consulting broke off between Apex and myself. The last communication I received from Tom was an email shortly after this. Tom is actually the one who sent me a newspaper article about the RNC's "issues" in India. Neither of us was even aware there was an issue during the time we ran the program there.

I don't know if Tom is even still employed with them. I do know that Tom had gone to work for a couple "bad" organizations after leaving SITEL. I can certainly understand that he needed to stabilize his employment for the happiness of his family. As you know, he was new at Apex when we launched this program in India. It makes me nauseous to think Tom may have been forced to lie for this company under oath, or find a new job.

So, my reply is asking for six things. The first is to have a clear understanding of what the recommended findings and charges are. The second is to have a hearing were I can be polygraphed regarding my testimony concerning the charges. The third is for the Commission to read my ENTIRE deposed testimony so you have the WHOLE TRUTH. The fourth is to receive copies of my deposition and the depositions and evidence provided by the other parties. (It was also concerning that none of the evidence noted in the brief was sent to me for review and response.) The fifth is to have the witness I spoke of above need have detailed later in this document, to be interviewed and if possible, deposed. And the sixth is to have the Commission attempt to contact Tom Maddux outside of Apex, assure him he has immunity and ask him about some of the conversations I have documented below and if he received pressure from Apex to "tow the company line" with regard to knowing this was NOT RNC work. Personally, I would also like to ask Tom to take a polygraph.

Not having seen Tom's deposition, and knowing the General Counsel has "cherry-picked" my testimony, it's difficult to give a complete response, but I have tried to address as many details as possible, based on the information I was provided. I'm sure it's not complete. At best it's a start to getting to the bottom of who's telling the truth and who's not.

I. STATEMENT OF THE CASE (HCL)

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This matter arose from a complaint filed by the Republican National Committee who IMMEDIATELY (the same day) leaked it to the press (AP). They didn't like an Indian call center calling registered Republicans because they had a history we knew nothing about. In reality, I also became the RNC's "new best friend" because they could leak this to the press and claim it wasn't them doing calls from India, it was me - even when our calls took place more than a year after theirs. The RNC did this to counter bad publicity regarding a person/firm they had hired to do fundraising a couple years before. This person did the work in India but didn't tell the RNC they were doing so. They hired an Indian firm that had developed technology that could "mask" a person's voice. Radio stations use this same technology today for entertainment purposes. For example, in Dallas, the sports radio station "The Ticket" uses this technology to create a "fake Jerry Jones" (the owner of the Dallas Cowboys). Anyone can produce a recording and the technology makes them sound like Jerry Jones' voice. It's all done in fun. HCL used this technology to mask their telephone agents' accents and when they called the United States, it would not be immediately obvious they were foreign. There would be some "clues", but the average person wouldn't necessarily pick up on it. For example, the choice of words and the order in which they are spoken are different in India than in the United States.

At the time of our calls in India, we knew NOTHING about the problems the RNC had in India. It was in fact Tom Maddux who "discovered" the RNC-India issue. It was shortly after the consulting negotiations had broken off with Apex that I received an email from Tom containing a newspaper column/article regarding the issue. I believe this was the last correspondence I've had with Tom. He sent it because it explained some of the things we had encountered in India on this program. If we had known, I'm not sure if we would have organized the RVC. The reason for that is because we would not have a fundraising "media" that financially worked. Earlier we had tested an automated technology that failed terribly. We did that before organizing and based on that test, we had not gone forward with organization. It wasn't until Tom moved jobs and came back around with live operators off-shore that RVC was created.

NEVER did RVC represent itself as the RNC. Our efforts were EXACTLY THE OPPOSITE of that. We wanted to "create a better mousetrap" and differentiate ourselves from the norm and status quo. We wanted to build a brand that stood out in the crowded marketplace of Republican entities. We considered ourselves a small piece of the Republican pie. We were looking to build our brand into a bigger piece of that pie. In doing so, at most, we may have made a rookie mistake. We used the wording "Republicans, Republican Party, GOP, and referenced candidate names and positions that we believed in." We believed we were entitled to do so. Again, we believed we were a small piece of the Republican marketplace. In all cases the money collected was for RVC memberships and as we built our donor base and funding the RVC would support both Republican candidates and the party. Never did we represent ourselves as working with, for or on behalf of the RNC. We do NOT believe "Republican Party" = "RNC". If it does, then we have made a mistake. It was certainly not an intentional mistake. It was a rookie mistake and should be addressed as such.

As everyone in political fundraising knows, you do NOT make any money on your initial fundraising request. In fact, at the RNC, initial donor solicitations using the same media strategies as we used (i.e. telephone contact with follow up mail) COSTS the RNC money. They give 100% of the funds collected to the tele-marketing vendor, plus they pay \$1.00 per new donor, plus they pay a credit card bonus, plus they process the credit card transaction which is an expense, plus they pay a mail shop to "cage" the responses, plus they send the new donor a welcome packet. (From memory, I believe the

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credit card bonus is \$5-\$10. It exists, I'm just not certain the amount.) After all these expenses, it easily can ~~cost~~ the RNC from \$3.00 to \$15.00 per new donor. None of that money solicited ever goes to help any candidate or party either. Plus, some money raised in other efforts (ie gala, donor re-solicitations, etc.) doesn't go to help candidates or state parties, etc either because it's paying for new donor solicitations. Furthermore, our plans were to be in the marketplace for a long time. We planned to grow our piece of the pie. We planned to continue to do new donor solicitations off-shore and do 2nd and 3rd requests for donation from our members on-shore. The RNC's issue in India, which we had nothing to do with, changed all that.

In spite of all this plus the fact we voluntarily stopped new donor solicitations when we received the letter from the RNC, we still placed Get Out the Vote calls before the election reminding Republicans to go to the polls on election day and vote Republican. I'll address this in more detail later in this document.

We may have made a rookie mistake in thinking we could use the phrases "Republican Party" and "GOP", but never did we knowingly and willfully do so with the intent to defraud anyone.

II. STATEMENT OF FACTS

I have worked for and owned companies that have done work for many Republican "entities" over the years. It should be noted that I have never done mailings for any of these. Even when the firms I worked for did RNC new donor solicitations, the RNC did our mail follow up. This is a clarification of what is written in the General Counsel's Brief. I have edited and written scripts in these capacities. (Mostly edited scripts, written some on occasion.) I have not written letters or mailings in these capacities. I have seen mailings and letters and in fact get stacks of them at my home as does anyone who has ever contributed to a Republican cause.

Apex Calls and Letters

Tom Maddux and I have been professional colleagues and friends for several years. We met while working for a telemarketing firm in South Carolina where we did extensive political work during the election year. He was head of call center operations and I was involved in bringing in new clients. Some of those clients were political. Throughout the years we have kept in touch and prior to him going to Apex, we had been working on several lines of business while he was employed with a firm out of Georgia. During that time he asked me to call the RNC to see if we could do their program off-shore at a Caribbean call center. I contacted Jeff at the RNC. (I am drawing a blank on Jeff's last name. He's probably in his 30's, African-American, not real tall, heavy-set, reported to Trevor the last I knew. He was hired to replace Sally Davis Schneider. Was there during Margaret Alexander-Parker's terms.)

Jeff informed me that the RNC policy prohibited work being done off-shore. I put this information on to Tom Maddux. Eventually we did propose to the RNC doing the work in a North Carolina call center, but it was never launched.

Shortly after this, Tom met a company that did automated voice calling utilizing voice recognition technology. I had heard through the grapevine that the DNC was utilizing this technology for initial

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solicitations, so I called the DNC and talked to a very knowledgeable lady who said they were having very good success with it in some of their calling cells. Based on that, we ended up testing the RVC program with this technology before organization. My hopes were this would be a way to launch the RVC organization. I knew it couldn't be launched profitably at an on-shore call center. The call centers can't make any money doing new donor solicitations. It either had to be off-shore, which was cheaper, or something new. It failed horribly. We only received one check for either \$20 or \$25 and I returned the check to the donor with a note telling them this was a test of the automated technology and thanking them for their help in evaluating it. I also encouraged them to make the donation to a local Republican. Additionally, I listened to the recordings of the automated conversations and did the transcription of the tapes. There were very few we could even send a follow up letter out to. My guess is 20 to 30 total. I additionally called these individuals to ask their opinions of the calls, etc. In all, it failed horribly. As Tom said afterwards, the technology "was quite as advertised." Basically the firm selling this concept did not have it ready for market.

During my deposition by Alexandra, she repeatedly asked me about my first conversation with Tom Maddux regarding doing RVC work. She was obviously looking for something, but I was drawing an absolute blank. I knew he had called me because that's how I found out he had left the Georgia firm and he brought up RVC right away and proposed we test off-shore. But like I said in the deposition, Tom and I talked frequently during this time period of approximately 6 months. I had totally forgotten about this automated test for RVC because it failed. RVC was on the back burner until Tom called about Apex.

All of the Apex employees listed in this section knew these calls were NOT being made on behalf of the RNC. This was not a single conversation with one employee at Apex over the telephone who might not have heard or understood what I was saying. These were multiple conversations over the entire 2-3 month period I worked with them that were generated over multiple lines of discussions. It is very concerning to me that I gave several examples of these conversations during my deposition and NONE of them are in this brief.

For clarification, Adam Booth was the Account Manager for the program. He was located in Virginia and did some of the initial set up on the program. But, eventually I dealt with the call center in India directly. I'm not 100% sure who Ms. Radhika Murari is. My guess is she is the president's daughter. If that is the case, she became involved with the program only in the last 2 weeks or so, and thus I didn't work with her very long and the name is a little fuzzy.

None of these people were ever told this was an RNC program. All of these people were told this was NOT the RNC.

Mr. Maddux knew this was not an RNC program based on many things. First he knew the RNC's policy didn't allow off shore calling. Second, he was present on several telephone conference calls where this topic arose. Once during the "train the trainer" call where the training packet was discussed. In the training packet I provided to Apex there is a section on this topic specifically. It discusses various Republican entities. It clearly states the RVC was none of these including the RNC. Mr. Maddux was on the conference call with my first meeting with the president of Apex, Shashi Gupta when I immediately corrected him when he referred to us as the RNC. It was a very direct correction and Mr. Maddux even apologized to me afterwards that he hadn't briefed the other members of the executive staff on who

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exactly the client was. Later on, when Apex started hiring from the outside for this program as we were going to ramp it up in India, Mr. Maddux called to tell me they had several people come in to apply for the job who insisted they had worked on RNC programs at another call center. Not knowing of the RNC issue in India at the time, I told him it could only be a couple things. First I said maybe Jeff at the RNC lied to me. I told him that didn't think that was the case. What I thought might be the case is it was some other Republican entity. We had heard Jeb Bush used an off-shore call center for GOTV. I told him it was probably some state or candidate's work.

Shashi Gupta was corrected by me immediately during the second phone call I was ever on with the man. (The first call consisted of a quick 20-second "Hi. Nice to meet you. Look forward to our conference call tomorrow" kind of conversation.) The correction was during a conference call with the executive team and other members of their staff, including Tom Maddux, Adam Booth and Gupta's daughter. I made it very clear this was NOT the RNC. This happened at the beginning of the conversation and nobody referred to it as the RNC after that.

Adam Booth knew this was not the RNC because he was the account manager and during the launch period he was present for the train the trainer phone call when we reviewed the training materials.

Radhika Murari knew for reasons listed above. Again, she really wasn't involved in this program. If negotiations for me to go to India to work with their call centers as a consultant had not broken down, she would have been. There was planning going on during the negotiations to transition some of the on-shore task to her.

Additionally, none of the call center staff is listed here. The person I worked with most on this program was the lady in India, Nidhi, who was in charge of monitoring the program. In my deposition, I give a very clear example related to this issue. Nidhi and I listened to probably 100-200 calls a night almost every night the program ran. Only once did we hear one of the agents tell a customer this was the RNC. Immediately, even as the agent's conversation is continuing, I said, "No. No. No." Nidhi's response to me was "I'm already at the door. I know exactly what you're going to say." This was because I was VERY clear and VERY direct when I trained these agents that we were none of these other Republican entities.

The other person at the call center I spent many hours with on the phone was one of the CALL CENTER owner's son. Apex has an ownership interest in the call center used. The son I refer to is the India owner's son. I don't remember his name, but we became pretty good friends during our working time. Both he and Nidhi were very disappointed I wasn't coming to India. I had discussions with him about this issue in detail after Tom told me applicants were coming in saying they had worked on RNC programs at another call center in the next town over. And of course the topic at hand was the RNC didn't do off-shore work, so they must be confused as to the exact Republican client.

I think very highly of Mr. Maddux. I have cried numerous times over the last two weeks thinking about the hell he must be suffering regarding this business. I can only think Tom has been put into a position of having to lie for his employer and tell the truth on this issue or adversely impact the happiness and financial stability of his family. I will not win that decision. I have NEVER said anything close to the following to Mr. Maddux nor anyone else.

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For example, Ms. Novacek had told Mr. Maddux that she was working for and was on retainer with the RNC and that she was in charge of its outgoing telemarketing.

My first reaction was I can't believe Tom said this. The next thought was where would he even get the idea to say "on retainer...in charge of its outgoing telemarketing." Then I thought, if he said this, it has to be pressure from the owners to keep his job. Then I thought if this were true, Tom would know someone holding a position such as describe above in the telemarketing industry would be required to travel to the clients on a regular basis. He knew I had a contract for Verizon that was similar and I was required meet with them monthly. We talked several times a day over the last 6 months or so and never once was I in Washington. Furthermore, I would also have multiple call centers running this program. At a minimum 2 or 3. I would be also traveling to those sites. And as is customary in this industry, we would be discussing "comps" on a daily basis. How is your call center stacking up to the performance of others running the same program. None of this occurred. I expect to be questioned this in detail when I come to Washington and take a polygraph test. And finally, I remembered the article Tom had emailed me. I don't know for a fact, but I am 98% sure Tom also shared that article with the owners of Apex. It would be extremely odd if he didn't. The article said the guy who ran the RNC program in India had a working relationship exactly like what is describe above.

I have addressed the use of the terms Republican Party-GOP above. Since the documents listed in the Brief are not attached to my copy, I am not comfortable discussing them in detail unless I have them in my hands. I will be happy to do this at the hearing and answer any and all questions.

The discussion about why it was called the RVC versus the RNC - NEVER HAPPENED. Again, why would it since everyone you listed from Apex knew this was NOT the RNC.

I have described the RNC as an "umbrella organization" but not as described herein. I've described this during training as follows: "Down at the bottom you have your local and county committees. This would be like the Fort Worth Republican Committee or Tarrant County Republicans. Then you have your State groups. These are the Texas Republican Party. And there are other state groups with specialty interests. Most of these groups work to elect Republicans at their level of interest. Above that you have the Republican National Committee. One of it's tasks is to assist these other groups and provide support to them. So it's like an umbrella organization.

"In addition to these you have all these other Republican groups. For example the Republican Senatorial Committee and Congressional Committee. There's a national Republican Hispanic group and there are state Republican Hispanic groups. The same for several groups trying to elect Republican women into office. And then there are PACs and special interest groups and all the candidate committees. In the case of the candidates you have exploratory committees before you have actually committees.

"There are a lot of groups out in the marketplace raising money for Republican causes."

This is in the training packet I provided the call centers. It's a special section. It's at the beginning of the training so everyone knows who they are calling for. Additionally, as part of the training, we have what is called in the industry as "Rebuttals". That is a long-time term. Anyone who's been around since the 80's in telemarketing says, "script and rebuttals". It's really a question and answer guide. You can NOT script out everything you will hear on telemarketing calls. But, if you're good you try to script out as

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much as possible. You walk into the Republican Senatorial Committee and ask to see its telemarketing script and rebuttals you will find a very similar document. They too will have "rebuttals" addressing the RNC, other Republican groups and candidates, especially the President. There is NOTHING unique about scripting out responses, it in fact is a very good thing. We certainly did NOT want to misrepresent ourselves as calling for Bush-Cheney, the RNC or any of the other Republican groups. I know of no political law that requires any group to list in a telemarketing call who they are NOT. And since no reference to any such law is made in the brief, I believe on this point our scripting broke no status. For the record, the only rebuttal I remember adding was the bumper-sticker rebuttal. And, who could have known to include that up front. There may have been one additional rebuttal added, but I don't have copies of these documents as I write this and if there was another one, I don't remember the context.

With regard to how often this issue came up during a conversation, it came up occasionally and thus the need for a rebuttal. In terms of numbers, my best guess is out of the 100-200 calls Nidhi and I monitored each night, maybe we would hear it 2-3 times. Ironically, I expected more with the Indian accents. What I found was basically a very similar experience compared to the RNC programs I have been associated with. We get the same amount of "who are you" questions on that program as we did on the RVC program in India. I was very surprised with this and had spent extra time training the "Republican marketplace" section of training because I thought we would have more of the "who are you" question because of the accents.

Additionally, anytime I have worked on any type of political calling program using registered voter lists, (with the exception of GOTV - where you are in and out in 20-30 seconds and you do not want to have any conversations - you simply want to deliver a message) we have always asked "Are you a registered Republican?" The reason for this is registered voter files are what we call "dirty lists". That means they are not very accurate.

The Letters: Again, sitting here today, having been deposed and having read this brief, we may have made a mistake when we thought we could use the phrase "Republican Party". We considered ourselves a small piece of the Republican marketplace. We may have made a "first-time around the block" mistake. I know in the case of the disclaimer at the bottom of the letter, it was an edit I took from the RNC letter. I knew the letter needed a disclaimer.

The Script: It is my understanding the FEC has copies of the script(s). If an individual agent mis-spoke, which also happens on the RNC programs I have been associated with, they are of course coached and re-trained on the issue. If it happens repeatedly, they are removed from the program. In India we only removed one person from the program. Again, I was very pleased with the agents and in fact found them to have higher scores during monitoring in this area than United States call centers. In India, they wanted to do it correctly. In America you are always battling the agents who want the sale/contribution and say anything to get it. (In the telecommunications industry it's called "slamming".) That was not the case in India. What they needed help on where the communication techniques to guide a customer into making a decision and contributing. Were the agents 100% accurate 100% of the time. Absolutely not. And neither are the RNC call centers. We made 1000's of calls a day on this program and by far these agents performed better in this area than US agents.

The FEC Calls to Individuals: First off, having only 4 complaint calls is an impeccable record. I would have thought there could have been 40. Every program gets complaint calls. It doesn't matter if it's

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credit cards, long distance service or political GOTV calls. With regard to the six contributors, how can a person who has received many, many, many telemarketing calls in a presidential political year and then one to two years later remember what was said on that call?

Checks: I did return checks made out to other entities to the contributor. I did not forward any checks to Bush-Cheney or the RNC. They were returned. I did not look at every check we received, as noted earlier, other people did process the mail in addition to me. And I was not specifically looking at entries on a memo line. The people who returned checks to us did so in a pre-addressed envelope. They only got the envelope if they agreed to contribute via a telephone call. I find it very hard to believe that 100+ checks were written out to the RNC or Bush-Cheney. I would like to see these checks. There is certainly a possibility, since I did not look at every check, that some could have been deposited. But at \$50,000 in deposits at an average of \$30 per contribution that's less than 2000 checks. I would not have missed 100 checks that were made out to other entities unless there was a rush of them in a batch I didn't process. Again, I would like to see the actual checks.

Advantage Solicitations

I first approached Advantage in the early part of 2004 about RVC, not in October. It was right after the Apex negotiations broke off and I was looking to replace a call center. At that time he said with his work on RNC he didn't want to do a PAC. Then while out of town in September and October 2004, Jeff called me. Basically he was desperate for work and he asked about the PAC. I did not approach Jeff. Jeff needed work for his call center because he was contractually required to provide jobs for three years. He needed work immediately because the election was ending and his RNC fundraising/now down solicitation work was going to end soon. I also provided Jeff with a commercial program - Bell South.

I had received a letter and a telephone conversations from a Jill at the RNC stating we were to stop making calls in India and saying we were the RNC. *We were not saying we were the RNC and Jeff's calls were not from India.* That would be the easy response to this, but in fact the RNC letter played on part in my decision to use Advantage. There were two things that played a part in my decision to let Jeff make calls on behalf of RVC. The first and foremost was I felt very strongly that I had told these contributors that we were raising money to help Republicans in the November election. That was absolutely our goal. We got caught up in the RNC-India issue and it had nothing to do with us. Second was we really didn't have very much money because we had voluntarily stopped the program. However Jeff suggested we had time to first do a quick request for money into the donor base. This should have produced \$30,000 to \$40,000 in credit card donations. We could then do a fair amount of GOTV calls. The problem is Advantage didn't perform. First off, they didn't make the first call when they were suppose to and I thought it was too late and told Jeff not to do the program. Next thing I know, the call center manager put the program up late and it was done. I'm not sure what script they used because there were 4 scripts submitted to them. I do know all the scripts, since it was close to the elections (I think even the week before is when it actually ran.) I wanted to make sure we included a GOTV message even in the solicitation call. A "while I have you on the phone...so I don't have to call you back... please remember to vote... the Democrats will be out in force..." message.

Credit Card transactions: The credit card donations were deposited directly into the RVC bank account. I don't know if the \$10,063 is correct or not. This might be from an Advantage report. If it is from a report, we didn't collect all of that. There is always some that don't get approved in processing.

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What I do remember is Jeff and I agreed they did not do a good job at all and the proceeds should have been much higher and that I had told him not to run the program, if I had known they were running it I would have been monitoring, like I always did and I would have been able to impact performance. Normally this would have been a BIG point of contention in a client-vendor relationship. However, Jeff already knew his call center had major problems. Most of the GOTV calls that year he sent out of house because he didn't have the confidence of his call center to perform. Plus he was sending me in as a consultant the week after the elections.

Advantage was paid \$10,008 in a credit memo-invoice exchange for these calls. (My consulting invoice was credit memo-invoice exchanged.) I pretty sure the program produced less than they were paid. At most it produced an extra \$63 which would have gotten eaten up in credit card processing fees. And thus the GOTV calls were not viable.

With regard to the Brief's allegation I "changed my story" when I spoke to Jeff Butzke in October 2004 because he knew I wasn't working for the RNC, this is a story line created by the Brief's author. I used the descriptor PAC when talking to both Advantage and Apex and those conversations happened BEFORE I ever knew there was an issue at the RNC.

As to the email documents that are listed in the Brief, I again need to see these to respond fully, but from what is described I THINK this is a SAMPLE REPORT that I sent Adam during program launch??? If that is the case, I absolutely sent a SAMPLE that I previously had programmed (it was probably in an excel spreadsheet) for the RNC program at Advantage that I had help Jeff Butzke launch in Valentine, NE the year before. It would have been provided so they see how to create the report. It would have had all the elements of a FUNDRAISING telemarketing program. For example, it would have had a column for dollars generated, in addition to sales. It would have \$ per hour and SPH (sales per hour) on it. Please ask me to review this in detail at the hearing, so that I can point to what I'm discussing here.

Also a point of clarification here, if I had received an email from Apex that stated the RVC program was part of RNC; I WOULD HAVE CORRECTED THIS in probably a telephone call. What I MIGHT not have done, is if I had received an email with RNC in it instead of RVC I might not have corrected it because I might not have NOTICED IT. For example, if RNC was in a heading on a report. Usually I get a report in an email and I'm focused on the data in the report, not what's in the headline. So when I was asked under oath if I had received something by email, would I have corrected it, my answer was I might not have. The question was NOT as presented in the brief. Furthermore it states I was aware that individuals at Apex considered the program part of the RNC and I failed in my response emails to correct them. I have no idea how I could have made the message that we were not the RNC any more clear than on a conference call with the executive committee and other staff from Apex I stop the head of the company in his tracks and clearly state we are not the RNC nor an affiliate of theirs.

As far as the "confusion" in the marketplace with regard to various entities, if you work in the political area and don't know it exists you certainly don't get out much. I remember being a telemarketing agent in Omaha, NE calling on various Republican programs and dealing with the same "who are you" question back in 1982. And, there are more phone calls and more mail today than back then. We did add a rebuttal or two after the campaign started. We do that on all telemarketing programs. Who knew people wanted that Bush-Cheney bumper sticker until you actually start making calls. Whenever

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possible we tried to assist the person we were calling. There was certainly a limit to what we could provide within a reasonable amount of time. For example, we certainly didn't script out all the state party information. It would just be too much to "find" quickly. But whenever possible we absolutely tried to help the person we called on party questions, etc. We are absolutely guilty of trying to be kind, courteous and helpful to the people we called. And this is exactly what I have done in the past when the same type of issues have arisen on RNC programs.

RVC expenses consisted of the call center payments, mailings, printing, postage, lists, data services, office supplies, etc. FEC's investigation would have a FULL accounting of this from the RVC bank account. Furthermore, I would like clarification of the dollar amounts. The credit card processing from the Advantage calls would have been directly deposited into the RVC account from Visa/Mastercard and yet it is itemized herein when nothing else has been. So my question is, does the \$50,000 INCLUDE the \$10,000??? Plus the brief lists another \$14,000 Apex never released to RVC. If you were going to commit fraud, isn't there suppose to be a payoff? The program under examination here has no payoff in the short term. You're lucky if you break even. The RNC new donor solicitation COSTS them \$3-\$15 per new donor. When you're a start up group, you don't have that money from other fundraising efforts. This program was planned for long-term. The intent was not to deceive. The intent was to build a brand and establish itself in the Republican marketplace. Furthermore, every political program I have ever worked on, when we call into voter registrations lists, we talk to every level of Republican including high-ranking officials at all levels. In the commercial side of the telemarketing industry we have what is called a "seeded list". That means names have been added to the list for the specific intent of a person to get a telemarketing call on a program to evaluate the caller and the call center. For example, names and phone numbers of Bank of America will add their names to a list, provide the list to the call center and receive the telemarketing call to evaluate the caller, etc. Voter registration lists are "self-seeded". I expected us to be calling the wife of the chairman of the Republican Party in California. We very likely could have called the head of the RNC. If my intent was fraud, I sure as heck would not have been using voter registration lists. Additionally, I called back every people who wanted to verify the authenticity of the call. There were only a handful, but I returned everyone of them and spent time telling them about the RVC. Someone asked our mailing address in DC and I provided it to him. He was familiar with the area of the address. Additionally, Advantage, who is far more experienced in the political arena than I, did NOT see the script, rebuttals, training packet, and sample letters as intentionally defrauding the contributors, then how can the FEC Brief make that claim. Advantage received the same training packet and rebuttals as Apex. The only thing that changed was the script.

Furthermore, if my focus was on exploiting a confusion in the marketplace, why provide some of the rebuttals for the program. Apex wouldn't have known any different. Or the rebuttals and training would have been to simply answer "yes" when asked if we were the RNC. And as I'm writing this, this is another example of Apex knowledge that we were NOT the RNC.

With regard to the disclaimer in the script and the required boxed disclaimer, I did not know I needed a box on the letter. I did know a disclaimer was needed and I edited a disclaimer from a mailing I received and I thought it was in compliance because of that. The mailing was from the RNC. I know from the past in campaign calls in Florida you needed a disclaimer in the script as to who paid for the call. Those are the only calls that I remember being associated with that required a disclaimer and we were not a candidate. As to my comment to Apex that it was against election laws for them to deposit the money and/or keep the checks. They needed to release these checks to me and they said they weren't going to. I

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think any person can see this statement for exactly what it was, and attempt to have Apex question it's actions.

CONCLUSION

Although I am not even close to being a lawyer, I believe there are two very important facts that will be considered in the Committee's evaluation.

First: If "Republican Party" = "RNC" we did make a mistake. It was unknowing, but a mistake just the same. If in fact the phrase "knowing and willful" indicates that "actions were taken with full knowledge of all the facts and a recognition that the action is prohibited by law" then you can NOT say I was "knowing and willful". Sitting here today I do not know if using the phrase: Republican Party = RNC.

Second: Did Apex lie about Ms. Novacek being perfectly clear this was not the RNC? Did they know the RNC did not use off shore call centers?

I have a person who can substantiate they did know. I need to ask some questions before I submit their name so you can contact them. I would like to do that at the hearing if possible. If not I will make myself available by telephone to discuss it. This person won't know all of this, but they will be able to confirm Apex knew at the time we were making the calls in India. This is a person Apex corporate knows nothing about. And, thus they have no idea that an independent person can catch them in these lies. They also have no employer control over this person. I'm willing to take a polygraph test on all of this. I don't think Apex will even consider doing the same. It's their word against mine and this brief is based heavily on those words.

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